

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

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|--------------------------------------|---|---------------|
| NOTICE OF ADJUSTMENT OF RATES |) | |
| OF WINDSOR FACILITIES, INC., |) | CASE NO. 8112 |
| TO BECOME EFFECTIVE JANUARY 20, 1981 |) | |

O R D E R

On January 5, 1981, Windsor Facilities, Inc., ("Applicant") filed with the Public Service Commission, formerly the Utility Regulatory Commission, its notice of a general adjustment of rates to become effective on January 20, 1981. The proposed adjustment would produce additional annual revenues of \$9,172, an increase of 29.1% based on test year revenues. Applicant stated that the rate adjustment was necessary in order to adequately render service and maintain its financial integrity.

On January 6, 1981, the Commission issued an Order which suspended the proposed rate increase for a period of five months, or until June 20, 1981. On April 6, 1981, the Commission issued an additional Order directing Applicant to provide statutory notice of the pending rate increase and the scheduled hearing, set for May 20, 1981, to its consumers.

On January 9, 1981, the Division of Consumer Intervention in the Office of the Attorney General filed a motion to intervene in this proceeding which was sustained. This was the only party of interest formally intervening herein.

The hearing was conducted as scheduled at the Commission's offices in Frankfort, Kentucky, with all parties of record in attendance. Based on cross-examination at the hearing, Applicant submitted, on June 2, 1981, an amended application requesting authority to acquire controlling interest in and to engage in the operation of the sewage treatment plant of Windsor Facilities, Inc.

In an Order issued June 8, 1981, the Commission granted Applicant an extension of time to file information requested at the hearing of May 20, 1981, extending said time through and including June 24, 1981. In the same Order, the Commission found that Applicant had waived the statutory suspension period to and including July 6, 1981. In a subsequent Order issued June 30, 1981, the Commission granted Applicant another extension of time to and including July 6, 1981, and also found that Applicant had waived the statutory five-month suspension period to and including July 31, 1981.

COMMENTARY

Windsor Facilities, Inc., is a privately owned sewage treatment system serving 570 customers in the Windsor Forest Subdivision and adjacent areas in Jefferson County, Kentucky. Applicant underwent a change of ownership in November 1980 when William Peterson and Rolleigh Peterson ("the original owners") sold 100 percent of Applicant's outstanding stock to Carroll Cogan ("the new owner"). This transfer of ownership was never authorized by the Commission as neither the original owners nor the new owner sought such authorization.

TEST PERIOD

Applicant proposed and the Commission has accepted the twelve-month period ending September 30, 1980, as the test period for determining the reasonableness of the proposed rates. In utilizing the historic test period the Commission has given full consideration to known and measurable changes where appropriate.

REVENUE REQUIREMENTS

Applicant proposed several pro forma adjustments as reflected on the comparative income statement included in the application. The Commission is of the opinion that the adjustments are generally proper and accepted for rate-making purposes with the following exceptions:

1. Applicant proposed an adjustment of \$1,116 for the increased expense of its operations contract for the daily inspection and routine maintenance of the treatment plant. This adjustment was based on Applicant's change of service companies, from Eubank, Hall and Associates, which charged a monthly fee of \$307, to Andriot-Davidson Service Company, which charges a monthly fee of \$400, an increase of \$93 per month. Applicant contended that Andriot-Davidson Service Company, a sister company to Applicant in that Mr. Carroll Cogan is president of both companies, provided a greater range of services for its higher monthly fee. Applicant did not present sufficient evidence in support of this contention and, therefore, this adjustment has been eliminated for rate-making purposes.

2. Applicant's adjustment for electric utilities expense of \$1,380 was based on a weighted average computation using Applicant's test year electric bills. The Commission has reduced this adjustment by \$412, to \$968, by applying Applicant's test year demand usage and energy usage to the electric rates authorized for Louisville Gas and Electric Company.

3. Applicant proposed an adjustment of \$600 to reflect its \$50 monthly rental fee paid to Andriot-Davidson Service Company for office space it shares with 18 sewer utilities. This fee is based on recovery of a portion of Andriot-Davidson's office expenses from a total of 15 sewer utilities, per Applicant's Exhibit XV. The Commission has reduced this adjustment by \$100 to reflect that there are now 19 utilities utilizing this office space, thereby reducing each utility's portion of the total cost from \$600 to \$500.

4. Applicant proposed to adjust its collection expense by \$1,789, based on a bi-monthly collection charge of 92 cents per bill from 570 bills. The Commission has reduced this adjustment by \$1,008 to \$781, to reflect a bi-monthly billing charge of 75 cents per bill for 474 bills. Applicant's adjustment was based on the general experience of Mr. Cogan's utility companies in calculating that 60 percent of Louisville Water Company's total collection cost of \$1.53 per bill should be allocated to this sewer utility; also, an error existed in the number of bills sent to apartment buildings which receive sewage disposal service from Applicant. The Commission's reduction in this adjustment reflects the actual experience of Applicant's collection charges of 35 to 40 percent of Louisville Water

Company's collection cost, adjusted upward to reflect the increased charges resulting from the rate adjustment granted herein, and the actual number of bills sent to Applicant's apartment building customers.

5. The Commission has adjusted Applicant's pro forma depreciation expense by \$150 to reflect a five-year write-off of the ADT alarm system installed by Applicant to alleviate the flooding problems that occurred periodically under the previous ownership.

6. Applicant proposed an adjustment of \$1,500 to reflect a three-year amortization period for \$4,500 claimed as rate case expenses. For rate-making purposes, the Commission has reduced this adjustment by \$500, to \$1,000, to reflect the elimination of Mr. Cogan's engineering fee related to preparation of this rate application. The Commission is of the opinion that Mr. Cogan's duties related to preparation of this case are part of his responsibilities as the company's president. The policy of not allowing these fees was previously established in Case No. 7931.

7. Applicant originally proposed an adjustment of \$2,000 to increase repairs and maintenance expense. No explanation of this adjustment was provided prior to the hearing, and none of Applicant's witnesses was able to testify concerning this matter. In an explanation submitted subsequent to the hearing, Applicant proposed several expenditures in support of its adjustment. The Commission is of the opinion and finds Applicant's explanation consists largely of capital expenditures rather than repairs and maintenance expenses, and therefore, this adjustment has been

reduced by \$1,580, to \$420, which is the annual expense of the monthly service charge for the ADT telephone alarm system.

8. Applicant proposed an adjustment to insurance expense of \$235 based on the general experience of insurance costs for Mr. Cogan's other sewer utilities. The Commission has increased this adjustment by \$145 to reflect Applicant's actual insurance expense.

9. Applicant proposed an adjustment of \$150 for recurring engineering fees. The Commission is of the opinion that this adjustment is unwarranted inasmuch as these fees generally go to Mr. Cogan for performing tasks that overlap with those tasks outlined by Applicant as directors' duties. The policy of not allowing these fees for rate-making purposes was also established in Case No. 7931.

10. Applicant included in its adjusted operating expenses \$150 for telephone expense. The Commission is of the opinion that Applicant has not adequately supported the need for this individual expense when Applicant shares a business address and a business phone number with Andriot-Davidson and several other of Mr. Cogan's companies in addition to paying for phone service as part of its monthly rental fee.

In addition to these adjustments, the Commission has reduced test year revenues by \$1,070 to eliminate the payments collected in arrears during the test year applicable to periods prior to the test year. The Commission has adjusted Applicant's provision for income taxes downward by \$181, from \$1,320, to \$1,139 to reflect the level of revenues granted herein. The net effect of all adjustments to Applicant's test year is as follows:

| | <u>Actual Test Year</u> | <u>Adjustments</u> | <u>Adjusted Test Year</u> |
|--------------------|-----------------------------|--------------------|-------------------------------|
| Operating Revenues | \$ 31,526 | \$ (1,070) | \$ 30,456 |
| Operating Expenses | 44,259 | (13,352) | 30,907 |
| Net Income | <u>\$ 12,733</u> | <u>\$ 12,282</u> | <u>\$ (451)</u> |

Applicant requested an increase in revenues sufficient to produce an operating ratio of 88%. The Commission concurs with Applicant's proposed operating ratio, based on the adjusted operating expenses found reasonable for rate-make purposes. To achieve this ratio, Applicant's revenues from sewer operations should be \$35,122 which will require an increase in revenues of \$4,666.

The Commission, having considered the evidence of record and being fully advised, is of the opinion and finds that:

(1) The rates set out in Appendix A, attached hereto and made a part hereof, will produce gross annual revenues of \$35,122 and are the fair, just and reasonable rates for Applicant.

(2) The rates proposed by Applicant would produce revenues in excess of those found reasonable herein, and, therefore, must be denied upon application of KRS 278.030.

(3) Any prospective buyer of a utility, regardless of the method of purchase, must be determined to be "ready, willing, and able" to own and operate the utility as required by Public Service Commission v. City of Southgate, 268 S.W.2d 19 (1954).

(4) The direct acquisition of the assets of a utility and the purchase of a controlling interest in a utility's common stock result in various legal and accounting differences; however, the practical effect of either transaction is to transfer control of the utility from one party to another.

(5) The original owners and the new owner made no attempt, prior to the actual transfer, to obtain approval of this Commission for the transfer of 100 percent of the stock of Windsor Facilities, Inc.

(6) In the instant case the Commission will take no punitive action toward either party. However, the Commission hereby gives notice to both parties that in any and all future transactions wherein the control or ownership of a utility is transferred, approval must be obtained from this Commission prior to the actual transfer of ownership or control. Further, failure of any party to seek the required authorization may result in the Commission seeking the maximum penalty possible under KRS 278.990.

(1) IT IS THEREFORE ORDERED that the rates proposed by Windsor Facilities, Inc., would produce revenues in excess of those found reasonable herein, and, therefore, must be denied upon application of KRS 278.030.

(2) IT IS FURTHER ORDERED that the rates set out in Appendix A, attached hereto and made a part hereof, are approved for sewage disposal service rendered by Windsor Facilities, Inc., on and after the date of this Order.

(3) IT IS FURTHER ORDERED that in any and all future transactions wherein the control or ownership of a utility is transferred, the participants involved in said transactions shall seek this Commission's approval of the proposed transfer prior to the actual transfer of ownership or control.

(4) IT IS FURTHER ORDERED that Windsor Facilities, Inc., shall file with this Commission within 30 days from the date of this Order its revised tariff sheets setting out the rates approved herein.

Done at Frankfort, Kentucky, this 5th day of August, 1981.

PUBLIC SERVICE COMMISSION

Marlin M. Voh
Chairman

Katherine Randall
Vice Chairman

Ann Harrison
Commissioner

ATTEST:

Secretary

APPENDIX A

APPENDIX TO AN ORDER OF THE PUBLIC SERVICE
COMMISSION IN CASE NO. 8112 DATED AUGUST 5, 1981.

The following rates are prescribed for sewage disposal service rendered to the customers of Windsor Facilities, Inc., located in Southwestern portion of Jefferson County, Kentucky.

All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Order.

Type of Service Rendered

Monthly Charge

Single-Family Residence

\$ 5.50

Multi-Family

4.15